INTERNATIONAL SEABED AUTHORITY **ISBA**

Assembly

Distr.
LIMITED

ISBA/A/L.7/Rev.1
11 October 1995

ORIGINAL: ENGLISH

First session (Third part)
Kingston, Jamaica
7-18 August 1995

Statement of the President on the work of the Assembly during the third part of its first session

1. The third part of the first session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica, from 7 to 18 August 1995.

2. At the opening meeting (the 16th meeting of the Plenary), I reported on the inter-sessional consultations I had undertaken in May in New York on the outstanding issues relating to the composition of the Council, in particular those pertaining to Groups A, B, C and D. My report on these inter-sessional consultations can be found in document ISBA/A/L.3 of 9 August 1995 and ISBA/A/L.3/Corr.1 of 15 August 1995.

3. In presenting my report, I reiterated that there was an urgent need to resolve the problems relating to the composition of the Council, and I requested the regional groups and other interested parties to engage in serious consultations and negotiations in order to achieve the necessary solutions as quickly as possible. I also reminded the Assembly that there were several other items on its agenda that needed to be dealt with. Among these were: election of the members of the Finance Committee; presentation of the final report of the Preparatory Commission; discussion of those sections of the final report on matters relating to the Authority that the Assembly may decide to consider, including the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority; the draft Protocol on Privileges and Immunities of the International Seabed Authority and the Draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority; appointment of the Secretary-General of the Authority, as soon as the list of candidates for the election of the Secretary-General is recommended to the Assembly by the Council; follow-up of the decisions taken by the Preparatory Commission on the implementation of resolution II; transfer of the property and records of the Preparatory Commission to the Authority; provisional budget and financial

organization; follow-up of the training programme; organization of the secretariat of the International Seabed Authority; date of the second session of the Assembly; and any other matters.

Election of the members of the Council

4. During the last few days I have held numerous consultations with the Chairmen of the regional groups as well as other interested parties. During these meetings I stressed that it was important, especially for the reputation of the Authority, that the Council be established as soon as possible. I wish to thank all the delegations who worked very hard in an attempt to bring the negotiations to a successful conclusion.

5. During my consultations with Groups A, B, C and D, the following developments occurred. The members of Group A reaffirmed the candidacy of Japan, the United Kingdom of Great Britain and Northern Ireland, the Russian Federation and the United States of America for the Council. It was also pointed out that Japan and the United Kingdom had agreed to four-year terms and the United States to a two-year term. The position of the Russian Federation on the matter is set out in paragraphs 4 to 6 of the statement of the President at the opening meeting of the third part of the first session (ISBA/A/L.3). At the same time some delegations expressed the view that the decision on the length of terms should be taken subject to agreed arrangements in Group B. However the principle of rotation in Group A was still unresolved.

6. As regards Group B, I felt that despite intensive consultations the deliberations had not moved forward sufficiently and it appeared that the Group needed more time to settle their arrangements.

7. The situation in Group C is very promising since, through the tremendous efforts on the part of all concerned, the Group was successful in reaching an understanding. They agreed on the selection of four candidates - Chile and Australia for two-year terms and Indonesia and Zambia for four-year terms. There was a further understanding that Indonesia and Zambia would serve only for two years and then relinquish their seats to Gabon and Poland, without prejudice to the right of any other Group members, including Indonesia and Zambia, to contest any seats as they became vacant.

8. As for Group D, I continued to urge its members to identify the six candidates for the seats available to that Group and to reach agreement on who will represent the special interests stipulated in the Convention and in the Agreement on the implementation of Part XI of the Convention.

9. As regards Group E, it was felt that the selection of members to be elected for two or four years and the distribution of seats among the respective geographical groups were possible. I was gratified to note that the Group had taken a somewhat flexible position on these issues.

10. Since it was not possible during this session to make sufficient progress to elect the Council, I have consulted with the Chairmen of the regional groups and the bureau regarding the holding of informal inter-sessional consultations.

There was no objection to holding such consultations in New York from 6 to 8 December 1995 following the signing ceremony of the Agreement on straddling fish stocks and highly migratory fish stocks and the discussion of the law of the sea item in the General Assembly. It was pointed out that it was important to have a clear perception of the purpose of the negotiations, that there was a need to accommodate the views of others and that there must be a firm commitment to making the consultations as meaningful as possible so as to assist the Assembly at its next session in establishing the Council and the Finance Committee and appointing the Secretary-General.

Other matters considered by the Assembly

11. The Assembly held preliminary discussions on the question of the priorities of the Authority during its initial phase of work; on decisions to be made in relation to the recommendations of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea; and on follow-up of the Commission's decisions concerning the registered pioneer investors, including the training to be provided by them.

12. It was suggested that two themes be considered by the Assembly, one being the issue of transparency in the relationship between the Council and the wider membership of the Assembly, and the other being the development of principles regarding environmental protection. It was felt that consideration of those issues need not prejudge the Council's competence in these matters.

13. The Assembly also held a discussion on the training programme relating to seabed mining. The Secretariat informed the Assembly that it had received a number of reports from registered pioneer investors regarding the discharge of their obligations, including the provision of training to persons designated by the Preparatory Commission or by the Assembly.

Discussion on the establishment of the Finance Committee

14. During the discussions on this subject, the view was expressed that informal consultations to be conducted by the President with the Chairmen of the regional groups were the best way forward to resolve the issue regarding the establishment of the Finance Committee. It was felt that a formal debate in Plenary might distract from the central issue of establishing the Council. Another view expressed was that it would be appropriate to hold a discussion on the Finance Committee in the Plenary while the President conducted consultations with the Chairmen of the regional groups.

15. Following this preliminary exchange of views I held some consultations with the Chairmen of the regional groups, but no substantial progress was achieved. In view of the special qualifications for membership of the Finance Committee, I should like to invite delegations to take into account the need for the candidates they propose to possess the qualifications stipulated in the Agreement and the rules of procedure and be prepared to undertake all the functions required of them.

Discussion on the Headquarters Agreement

16. The Assembly considered the draft Headquarters Agreement prepared by the Preparatory Commission at its 21st meeting, and felt that it was basically acceptable and could be used as a starting-point for negotiations with the Government of Jamaica. It approved the setting up of a small, open-ended ad hoc Working Group to identify issues that should be taken into account by the Authority or the Secretary-General in such negotiations.

17. It was agreed that the President of the Assembly should appoint a coordinator for the Working Group. The Assembly decided that the Ad Hoc Working Group would deal also with the Protocol on the Privileges and Immunities of the Authority, but that priority would be given to the examination of the Headquarters Agreement. The Assembly authorized the Secretary-General, after his appointment, to negotiate, as a matter of priority, the Headquarters Agreement with the Government of Jamaica and to submit the final draft of that Agreement to the Assembly for adoption.

18. The Vice-President of the Assembly from Mexico was appointed Coordinator of the Working Group, which held two meetings on Wednesday, 16 August, and Thursday, 17 August 1995. During these meetings the Working Group examined the draft Headquarters Agreement prepared by the Preparatory Commission.

Report of the Credentials Committee

19. During the third part of the first session of the Assembly, the Credentials Committee held two meetings, on 8 and 16 August 1995. The first meeting was devoted to the organization of the Committee's work. In view of the fact that Mr. Helmut Tuerk could not attend the third part of the first session of the Assembly, the Committee decided to elect Mr. Alexander Grubmayer (Austria) as its new Chairman.

20. After examining the credentials of delegations, the Credentials Committee presented its report (ISBA/A/7).

Discussions on the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro)

21. The Chairman of the Credentials Committee informed the Assembly that the Federal Republic of Yugoslavia (Serbia and Montenegro) had submitted credentials stating that its Permanent Representative to the United Nations in New York and the Minister Counsellor at the Permanent Mission had been authorized to represent the State at the third part of the first session of the International Seabed Authority. During discussions in the Credentials Committee, it had been pointed out that since the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in treaty organs, it should not be allowed to participate in the session.

22. Since the Credentials Committee had decided that it did not have the authority to take a decision on the matter, a draft decision on the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro) was submitted by the delegations of Croatia, Egypt, Kuwait, Malaysia, Oman, Qatar, Senegal, Tunisia, United Arab Emirates and the United States of America. The draft decision (ISBA/A/L.4) called upon the Assembly to decide that the Federal Republic of Yugoslavia should not participate at its first session. Prior to the adoption of the decision, some delegations said that they would not participate in the voting because they felt it unnecessary for the Assembly to take a decision on the matter. The Assembly then adopted the decision at its 23rd meeting without a vote.

Presentation of the final report of the Preparatory Commission

23. At the 22nd meeting of the Plenary, the Rapporteur-General of the Preparatory Commission (Ambassador Kenneth Rattray of Jamaica) presented its final report (LOS/PCN/153) on behalf of the Chairman of the Preparatory Commission. The report was prepared in accordance with paragraph 11 of resolution I of the Third United Nations Conference on the Law of the Sea. As required by paragraph 11 of resolution I, the report excludes the recommendations of the Preparatory Commission regarding the practical arrangements for the establishment of the International Tribunal for the Law of the Sea.

24. The report consists of 13 volumes, which represent a comprehensive documentation of the work of the Preparatory Commission during its sessions from 1983 to 1994. The report is structured on the basis of the institutional framework of the Preparatory Commission, which consisted of: the Plenary, including the General Committee; Special Commission 1; Special Commission 2; Special Commission 3; and Special Commission 4. For the purpose of the present report the Assembly is not concerned with Special Commission 4, whose area of responsibility related only to the Tribunal.

25. I wish to express my sincere gratitude and also that of the Authority to Ambassador Rattray for his comprehensive statement (ISBA/A/L.6) presenting the final report of the Preparatory Commission.

Future administrative and budgetary arrangements for the Authority

26. According to section 1, paragraph 14, of the annex to the Agreement on the implementation of Part XI of the Convention, until the end of the year following the year during which the Agreement enters into force, the administrative expenses of the Authority shall be met through the budget of the United Nations. Within the biennial cycle of the budget of the United Nations, budgetary provisions have thus been made for the expenses of the Authority, up to the end of 1995, amounting to $776,000, under a newly created budget section, section 33, entitled "International Seabed Authority".

27. The budget of the Authority for 1996 was to have been prepared by the Secretary-General of the Authority. However, in the absence of the Secretary-General of the Authority and in the context of the submission and review of the proposed programme budget of the United Nations for the biennium 1996-1997, the Secretariat of the United Nations has proposed, solely as a stopgap measure, "to retain [under sect. 33] the 1994-1995 appropriation in the resource base for 1996-1997 [i.e., $776,000], pending submission of the budget of the Authority, as agreed by its Assembly, to the General Assembly at its fiftieth session". 1/

28. This is a contingency measure proposed only because a budget submission containing a detailed analysis and estimation of resource requirements prepared by the Secretary-General of the Authority does not exist. It should be noted that the proposed amount cannot fully cover the expenses of the Authority in 1996. It should be noted further that it will be impossible to have any budget submission prepared by the Secretary-General of the Authority before March 1996, at the earliest, which would be too late for it to be considered by the General Assembly at its fiftieth session.

29. It is thus imperative that a proper budget submission be made in advance of the fiftieth session of the General Assembly. In view of the fact that the expenses of the Authority are being met through the budget of the United Nations and that the Secretary-General of the United Nations has been filling the lacunae until the Secretary-General of the Authority is appointed, I proposed that the Assembly take a decision to entrust the task of preparing the budget of the Authority for 1996 to the Secretary-General of the United Nations and submitted a draft decision to that effect (ISBA/A/L.5).

30. With regard to the secretariat arrangements for the Authority before the Secretary-General enters on duty, certain provisions are absolutely essential to cover the gap between 1 October 1995 and the time the secretariat of the Authority is initiated by the Secretary-General of the Authority himself. This is especially urgent given that the Kingston Office for the Law of the Sea, which has been providing secretariat services to the Preparatory Commission and, since November 1994, to the Authority, is scheduled to be abolished on 30 September 1995. In view of this situation I also proposed in the draft decision that the Assembly request the continued use of the facilities and staff of the Kingston Office for the Law of the Sea as the interim secretariat of the Authority from 1 October 1995 until the time the Secretary-General of the Authority enters on duty, and also that it authorize the Secretary-General of the United Nations to administer the interim secretariat.

31. I also suggested that for the purpose of bridging the gap between 1 October 1995 and the entry on duty of the Secretary-General of the Authority, the interim secretariat should make the necessary arrangements so that the existing agreements with the Government of Jamaica, e.g., the Headquarters Agreement and the Protocol on Privileges and Immunities, are extended. The interim secretariat would also initiate some of the preparatory work so that the preliminary organizational matters can be dealt with efficiently in the start-up phase. As you may recall, the recommendations of the Preparatory Commission regarding the programme of work for the start-up phase are contained in document LOS/PCN/143.

32. The costs of the meetings of the Assembly next year will constitute one important factor to be borne in mind in drawing up the budget for the Authority in 1996. Another important factor will be the cost of providing, through the facilities and staff of the Kingston Office for the Law of the Sea, interim secretariat services for the Authority. I therefore suggested that the Assembly should draw the attention of the Secretary-General of the United Nations to these factors, so as to provide him with guidance in drawing up that budget.

33. During the discussion on these proposals it was clarified that although the actual amount required to cover these expenses could not be accurately calculated at this time, the draft budget to be proposed would be based on the same assumptions and requirements as provided for in the initial budget approved by the General Assembly of the United Nations last year. The Assembly then approved these proposals by adopting the draft decision submitted by the President (ISBA/A/L.5).

Future meetings

34. I suggest that during the first week of the next session, the Assembly should concentrate on the election of the Council, the establishment of the Finance Committee and the appointment of the Secretary-General. The next priority should be the adoption of the rules of procedure of the Council.

35. On the basis of the decision adopted by the Assembly (ISBA/A/L.5), I have requested the Secretariat to provide for two meetings of the Authority in 1996, as follows:

(a) The first meeting to take place from 11 March 1996 for up to three weeks, if necessary, principally for the purpose of electing the Council and the Secretary-General and establishing the Finance Committee;

(b) The second meeting to take place for up to two weeks from 5 August 1996, primarily for the Finance Committee, the Council and Assembly to consider and decide on the budget and to establish the Legal and Technical Commission.

36. During these meetings, the Assembly and the Council, as far as practicable, shall also consider the other items on their agendas.

37. I take it that the Assembly takes note of the above statement and agrees to transmit it to the General Assembly of the United Nations for necessary action.

38. I wish to invite delegations to consider during the inter-sessional period the composition of the bureau for the next session.

* * *

39. Since this meeting brings to an end the first session of the Assembly, I should like to take the opportunity to express my sincere gratitude especially to the Vice-Presidents of the Assembly, the Chairmen of the regional groups, the coordinators of the interested groups and all delegations that have participated

in the meetings of the Assembly of the International Seabed Authority. I should also like to thank all the members of the Secretariat who have facilitated our work.

40. Finally, I should be grateful if the Jamaican delegation would transmit my deep appreciation and that of all members of the Assembly to the Government and people of Jamaica for their very kind hospitality.

Notes

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 6 (A/50/6/Rev.1), vol. II, part XIII, para. 33.4.